Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures

IB Docket No. 95-117

To: The Commission

COMMENTS OF PANAMSAT CORPORATION

PanAmSat Corporation ("PanAmSat") submits these comments in response to the Notice of Proposed Rulemaking ("NPRM") in the above-referenced proceeding. As a separate satellite system operator, PanAmSat currently provides voice, video, and data services on a global basis.

In the NPRM, the Commission has proposed to streamline the satellite application and licensing procedures. Specifically, the Commission has proposed to eliminate the construction permit requirement, relax the rules governing space station licensee reports, reduce the number of filing requirements for space station operators, and eliminate the requirement to file an application for authority to operate a geostationary satellite in inclined orbit. PanAmSat generally supports the changes proposed by the Commission. However, although most of the proposed changes will facilitate improved service to the public and reduce unnecessary administrative delays, one of the proposals will, if adopted, reduce the Commission's ability to prevent the warehousing of the most sought-after orbital locations.

I. DISCUSSION

The Commission has proposed to significantly streamline satellite application and licensing procedures. These changes are intended to allow satellite operators to respond more quickly to customer needs and to increase the efficiency of the Commission's regulatory efforts. With one exception, the Commission's proposals are sound and should be adopted.

A. Waiving The Construction Permit Requirement

The Commission has proposed to "waive the construction permit requirement for space stations and allow potential applicants to begin construction of their satellites at their own risk prior to receiving a license."[1] PanAmSat fully supports this proposal.

As the Commission has noted, the process of designing, building, licensing, and launching a new satellite may take several years. In order to begin operation of a new satellite as expeditiously as possible, applicants often find it necessary to begin satellite construction while the FCC licensing process is under way. Since construction permits generally are processed in conjunction with satellite licensing authorizations,[2] applicants are permitted to begin construction only if they have received a Section 319(d) waiver from the Commission.

The construction permit process and associated 319(d) waivers provide the Commission with notice of satellite construction activities, which my be useful for long-term planning purposes, and help to ensure that the Commission's ultimate

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[1] NPRM ¶ 7.

[2] See In re Emergency petition of Eyetel International, Ltd., Order, DA 94-1261 (rel. Nov. 15, 1994) ("The Commission generally considers construction and launch applications concurrently; [it] has not, in the last decade, issued a space station construction permit separate from a launch authorization.").

licensing decisions are not prejudiced by early space station construction.[3] Both of these functions, however, can be performed more efficiently using the Commission's proposed streamlined notification process. Under the proposed notification process, applicants will be required to notify the Commission prior to beginning satellite construction and to acknowledge that they are proceeding at their own risk — no Commission authorization will be required.[4]

PanAmSat agrees with the Commission's conclusion that the proposed construction notification process will "diminish the administrative burdens both to applicants and to the Commission staff associated with the processing of construction permit applications and requests for 319(d) waivers."[5] In addition, the elimination of the 319(d) waiver process will eliminate unnecessary delays. Although, in practice, Section 319(d) waiver requests have been routinely granted,[6] applicants must nonetheless forbear from beginning or continuing construction while awaiting grant of the waiver. Thus, adoption of this proposal will allow satellite operators to respond more quickly to market needs and help to restrain upward cost pressures on satellite-delivered services.

B. Eliminating Certain Existing Requirements

The Commission also has proposed to eliminate a number of reporting requirements currently imposed upon applicants for new space station authorizations. For instance, the Commission has proposed to "eliminate the general requirement that applicants for new satellite space stations submit a detailed

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[3] Section 319(d) waiver applicants are required to certify that they are beginning construction at their own risk.

[4] NPRM ¶ 7.

[5] Id. ¶ 8.

[6] See id. ¶ 7 & n.6.

statement of estimated investment and operating costs for the expected lifetime of the facility and a detailed schedule of the estimated investment costs and operating costs and estimated annual revenue requirements."[7] Likewise, the Commission has proposed to eliminate "the requirements that an applicant submit the estimated demand for the services and the entities to be served, and an estimate of transponder capacity under each of the proposed operating conditions."[8] PanAmSat supports these proposals.

As the Commission recognizes, none of these requirements "is necessary to [its] determination of whether a grant of a space station authorization would serve the public interest."[9] On the other hand, "routinely requiring this information [to be publicly reported] imposes an undue burden on applicants"[10] and may sometimes cause applicants to suggest or reveal confidential business information. In short, there is no current justification for retaining these extensive reporting requirements and they should, therefore, be eliminated as proposed.[11]

C. Reducing Reporting Requirements For Space Stations In The Fixed-Satellite Service

In the NPRM, the Commission has proposed to require satellite operators to file an annual report, rather than a semi-annual reports, on space station usage.[12] In addition, the Commission has proposed to reduce the amount of detail required

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7 Id. ¶ 9 (internal quotations omitted).
8 Id. ¶ 10.
9 Id.
10 Id. ¶ 9.
11 See Home Box Office, Inc. v. FCC, 567 F.2d 9, 36 (D.C. Cir.) (government regulations that cannot be justified should not be retained), cert. denied, 435 U.S. 829 (1977).
12 Id. ¶ 13.

to be provided in space station reports regarding transponder utilization.[13] However, it will continue to require operators to describe "how each transponder is being used and identify the total capacity or percentage of time each transponder is actually used for transmission and the amount of unused system capacity in the transponder."[14]

Halving the number of space station reports filed each year will significantly reduce the administrative burdens both on space station operators and the Commission. Moreover, the information to be required in the proposed annual reports will allow the Commission effectively to monitor system usage and prevent the warehousing of orbital slots. Therefore, PanAmSat supports these proposals.

D. Eliminating Application Requirements For Inclined Orbit Operations

The Commission has proposed to eliminate the requirement to file an application to operate a geostationary satellite in inclined orbit.[15] PanAmSat is concerned that the elimination of this requirement may facilitate the warehousing of orbital slots and it, therefore, urges the Commission to abandon this proposal.

As the Commission knows, the useful life of a geostationary satellite can often be extended for several years by reducing the fuel spent on maintaining geostationary orbit. Under current rules, satellite operators are required to apply for authority to operate a satellite in inclined orbit. In reviewing these applications, the Commission's primary concern has been potential interference to other satellites.[16]

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13 Id. ¶ 14.
14 Id.
15 Id. ¶ 15.
16 Id.; see also e.g., Hughes Communications Galaxy, Inc., 9 FCC Rcd 2155 (1994).

The Commission now proposes to eliminate the requirement because "[i]nterference has not proven to be a problem."[17]

PanAmSat urges the Commission to retain the current application requirement for authority to operate a satellite in inclined orbit. Aside from the general interference concerns which previously motivated the Commission to require inclined orbit applications, the requirement allows the Commission to monitor space station usage and, by denying such applications when appropriate, to prevent operators from holding, with aging satellites, scarce orbital slots that could be used by new, state-of-the-art space stations.[18] In turn, this will help to enhance competition in the satellite-delivered services marketplace, ensure that customers are provided with the most advanced telecommunications facilities available, and avoid situations in which satellite applications are found to be mutually exclusive. These benefits far exceed the minimal reduction of paperwork that would result from the elimination of the application requirement.

II. CONCLUSION

For the reasons set forth above, the Commission should adopt most of the proposals outlined in the NPRM. However, the proposal to allow geostationary satellites to operate in inclined orbit without express authority would, if adopted, facilitate the warehousing of scarce orbital slots or otherwise undermine the ability

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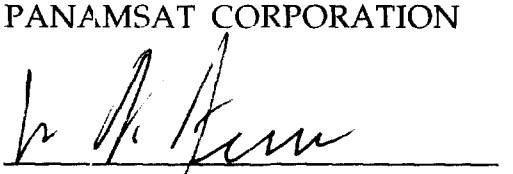
17 NPRM ¶ 15.

18 See GTE Spacenet Corporation Application to Modify Temporary Authority for GSTAR III Satellite, 8 FCC Rcd 3078 (1993) (authorization to operate in inclined orbit should not "impede the introduction of new satellite technology"). Although the warehousing of orbital locations with aging satellites has not yet been a significant problem, the threat of such warehousing will increase as the number of market participants grows and orbital slots become more scarce.

of the satellite industry to provide its customers with the highest quality service. PanAmSat therefore urges the Commission to reject this proposal.

Respectfully submitted,

PANAMSAT CORPORATION



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